

Islamic Republic of I R A N

Permanent Mission to the United Nations

Statement by

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before the Sixth Committee

68th Session of the United Nations General Assembly

on agenda item 84:

**"Report of the Special Committee on the Charter of the United Nations and on the
Strengthening of the Role of the Organization"**

New York, 11 October 2013

بسم الله الرحمن الرحيم

Mr. Chairman,

My delegation aligns itself with the Statement delivered on behalf of the Non-Aligned Movement and would like to make the following points in its national capacity. Iran continues to attach great importance to the role and activities of the Special Committee on the Charter of the United Nations and on the Strengthening of the Role of the Organization.

We appreciate the valuable contributions of the Special Committee to the promotion of purposes and principles of the UN Charter, particularly maintenance of international peace and security, peaceful settlement of disputes, and upholding the rule of law at the international relations. Indeed, the Special Committee is an appropriate platform for Member States to review and renew their commitments to such purposes and principles. Nevertheless, it is crystal clear that using this valuable potential of the Committee requires a strong political will by all.

Mr. Chairman,

Prohibition of the threat or use of force is the single most important achievement of the United Nations. According to the Charter, States have an unambiguous obligation to refrain, in their international relations from the threat or use of force against the territorial integrity or political independence of any State, or in any other manner inconsistent with the purposes of the Organization. States have also an obligation to settle their international disputes by peaceful means.

These fundamental principles of international law should be adhered to and strictly observed by all States, and shall also truly constitute the cornerstone of the rule of law at the international level. Witnessing recent debates regarding the threat or use of force reminded us that we are still to strive collectively to promote them as the building blocks of the United Nations. The Special Committee has an important role to play in addressing this concern. It is in this context that my delegation supports meaningful consideration of all proposals concerning the maintenance of international peace and security on the agenda of the Special Committee, including the proposal submitted by Belarus and the Russian Federation concerning the request for the ICJ's advisory opinion on the legal consequences of the resort to the use of force by States without prior authorization by the Security Council, except in the exercise of the right to self-defense.

Mr. Chairman,

Sanctions, as coercive measure, may be introduced as a last resort, only after the Security Council has determined an actual threat to peace or a breach of peace - based on valid evidence and not mere speculations and misinformation - or an act of aggression, and only when peaceful measures have been exhausted or proven to be inadequate. In so doing, the Security Council shall act in strict conformity with the purposes and principles of the Charter and avoid exceeding its authority or acting in breach of the principles of international law.

As articulated in operative paragraph 1 of the document on "Introduction and implementation of sanctions imposed by the United Nations" annexed to General Assembly resolution 64/115 (16 December 2009), sanctions should be in support of legitimate objectives. As such, the Security Council shall not seek to deprive any Member State of its recognized legitimate rights under international law. Nor can it determine a lawful and legitimate conduct by a State as a threat to international peace and security.

While the Security Council is entrusted with the primary responsibility for maintenance of international peace and security, it can not exceed its authority or act in breach of the principles and rules of international law. The Council shall not overstep its competence as outlined under the Charter, particularly in Articles 24 and 25.

The Security Council, as a constituting organ of the United Nations established by an intergovernmental agreement, i.e., the Charter, is not *legibus solutus*, since "neither the text nor the spirit of the Charter conceives it as such", to borrow the phraseology used by the ICTY in Tadic Case; it is, rather, subjected to, and obliged to comply with the legal obligations defined under its constituting treaty, including the purposes and principles enshrined therein, and other peremptory principles of international law, *jus cogens*.

As it is clearly stated by the ICJ, "The political character of an organ cannot release it from the observance of the treaty provisions established by the Charter, when they constitute limitations on its powers or criteria for its judgments. To ascertain whether an organ has freedom of choice for its decision, reference must be made to the terms of its constitution." The ICJ's statement does, in fact, in its advisory opinion of 1971, reinforce the preponderant view on

Article 25 of the Charter. By the same token, Member States are bound to carry out those decisions taken in accordance with the Charter.

Given that, those sanctions imposed pursuant to arbitrary and politically motivated determinations of the notion of threat to the peace and security and based on political manipulation of the Council by some permanent members could not be seen as legitimate and lawful. In this regard, my delegation reiterates that, as a key organ of an international organization, the Security Council should be accountable for the consequences of those sanctions imposed for "unlawful" objectives and/or introduced under political pressure of some permanent members out of their political agenda against the targeted States. Such sanctions are acts which are wrongful under international law and which entail international responsibility of the Organization. Those member States which take undue advantage of their membership in the Council to impose such unlawful sanctions against other States shall bear responsibility for such internationally wrongful act of the Organization.

In such cases the targeted States shall be entitled to be compensated for damages inflicted upon them. From this standpoint, my delegation reiterates that the International Law Commission should give due consideration to the legal consequences of arbitrarily imposed sanctions against member States by the Security Council, under the topic "Responsibility of International Organizations". We note, in particular, draft article 3 proposed by the International Law Commission in this regard which reads: "Every internationally wrongful act of an international organization entails the international responsibility of the international organization."

Mr. Chairman,

The continuing arbitrary unilateral economic sanctions against developing countries as an instrument of foreign policy remains a matter of serious concern; such morally wrong and ethically unjustified unilateral measures not only defy the rule of law at the international level but also infringe upon the right to development and leads to violation of basic human rights. Such unilateral coercive measures which has almost always been initiated by one State against many developing countries clearly contravene international law and the Charter of the United Nations, especially where they are aimed at depriving nations of their lawful and legitimate rights under treaties, as well as fundamental human rights of individual citizens in the targeted States. In many cases the unilateral sanctions are imposed as a result of extra-territorial application of domestic legislations against legal and natural persons in other countries which is all the more in contravention of international law.

We have heard a number of times about the "smartness" of the sanctions. The fact of the matter is, however, that in practice the sanctions have been pointedly smart only in targeting the daily life of the ordinary citizens in order to force them to pressurize their political systems into submitting to illegitimate demands of the targeting State. And the masterminds of planning the sanctions are well aware that the terms "smart" and "targeted" are not but highly hypocritical euphemism to cover the most inhuman and brutal instrument of foreign policy to punish nations for their perseverance and determination to insist on the right to self-determination and political independence.

Mr. Chairman,

We echo the concerns expressed by the Non-Aligned Movement over the continuing encroachment by the Security Council on the functions and powers of the General Assembly. In our view, the Special Committee should address this challenge on a priority basis. Before concluding, my delegation expresses its appreciation to those delegations that put forward valuable proposals during the previous Sessions of the Special Committee. We look forward to further deliberation on some of such proposals, in particular those presented by delegations of Venezuela and Cuba.

I thank you.